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6 IN THE UNITED STATES DISTRICT COURT

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FOR THE NORTHERN DISTRICT OF CALIFORNIA

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ADOBE SYSTEMS INCORPORATED,

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Plaintiff,

No. C 08-05511 JSW

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v.

**ORDER GRANTING REQUEST  
FOR CONTINUANCE OF CASE  
MANAGEMENT CONFERENCE  
AND ORDER TO SHOW CAUSE**

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AIDEN O'CONNORS ET AL, et al.,

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Defendant.

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15 The Court has received Plaintiff's request for a continuance of the Case Management  
16 Conference currently set for June 26, 2009. Good cause appearing, the request is GRANTED,  
17 and the Case Management Conference shall be continued to September 11, 2009 at 1:30 p.m. A  
18 joint case management conference statement shall be due on September 4, 2009.

19 Plaintiff filed the original complaint in this matter on December 9, 2008, in which it  
20 named only Aiden O'Connors and Does 1-10 as defendants. On April 3, 2009, the Court issued  
21 an Order granting Plaintiff leave to take immediate discovery. In addition, it also granted  
22 Plaintiff's request to extend the time under Federal Rule of Civil Procedure 4(m) by which it  
23 was required to serve Defendant O'Connors. Pursuant to that Order, Plaintiff was required to  
24 effect service by June 5, 2009.

25 On May 21, 2009, Plaintiff filed an Amended Complaint, naming two additional  
26 defendants but raising the same claims for relief as it did in its original complaint. According to  
27 the Declaration submitted in support of its request to continue the case management conference,  
28 Plaintiff, however, has not served Defendant O'Connor with either the original complaint or the  
Amended Complaint.

1        "The 120-day time limit for service does not restart each time a plaintiff files a new  
2 amended complaint." *Rudolph v. UT Starcom*, 2009 WL 248370 at \* 2 (N.D. Cal. Feb. 2, 2009)  
3 (citing *Bolden v. City of Topeka*, 441 F.3d 1129, 1148 (10<sup>th</sup> Cir. 2006) (120-day time period  
4 restarts only as to newly named defendants)). Accordingly, Plaintiff is HEREBY ORDERED to  
5 show cause why this matter should not be dismissed as to Defendant O'Connors and why an  
6 extension of time to serve Defendant O'Connors should be granted. Plaintiff's response to this  
7 Order shall be due by no later than June 22, 2009.

8        **IT IS SO ORDERED.**

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10      Dated: June 15, 2009

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12      JEFFREY S. WHITE  
13      UNITED STATES DISTRICT JUDGE